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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/715,102	11/17/2003	Mark H. Miller		3264

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EXAMINER

JOHNSON, JERROLD D

ART UNIT	PAPER NUMBER
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3728

DATE MAILED: 07/19/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Tata

Office Action Summary	Application No.	Applicant(s)	
	10/715,102	MILLER, MARK H.	
	Examiner	Art Unit	
	Jerrold Johnson	3728	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 July 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 4, 11-13 and 15-29 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 4, 11-13 and 15-29 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

Claims 13 and 20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 13 should depend from claim 4, and is treated as such. Claim 20 recites an opaque indicator dial which contradicts the recitation of a transparent indicator dial in claim 18, from which claim 20 depends. Cancellation of this claim is recommended.

Claim Rejections - 35 USC § 103

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 4, 11, 12, and 15-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Trick US 4,749,093 in view of Holtsch US 4,756,423.

Re claim 4, Trick discloses a closure body 212 having a top surface, pill vial, 216, indicator dial 220 having circumferentially spaced mating indexing formations 222, the indicator dial being rotatably secured to the top surface of the closure body. Trick further discloses the functional arrangement as set forth in the last 4 lines of the claim.

Trick does not disclose a transparent indicator dial.

Holtsch discloses several embodiments of indicator dials 20,31, and 60, all of which comprise a transparent element to which, like the current invention, non-transparent elements with a particular color have been imprinted. Specifically, Holtsch teaches that the transparent indicator dial includes paint in such a configuration that windows (unpainted areas) are maintained surrounded painted indicia numbers. Transparent portions surround the painted indicia numbers just as is disclosed in the present application and is claimed in claim 4. The top surface of the disc underlying the indicator dial is of the same color as the indicia (again just like the present application) with the exception of an indicator element 24,45 and 75 of a different color (just like element 14 of the present invention).

Accordingly, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the indicator of Trick, with the indicator of Holtsch so as to provide a more pleasing esthetic.

Applicant's arguments drawn to Holtsch disclosing an entire pill dispensing device are noted, but not persuasive. Holtsch discloses an indicator attached to a pill dispensing device, just like the present invention. However, even if Holtsch has discloses merely an indicator device, separate from any dispenser, the indicator device of Holtsch would be an appropriate teaching of an alternative indicator device to that disclosed by Trick.

Re claim 11, the indicia comprises a repeating pattern of at least two indicia.

Re claim 12, Trick discloses two repeating patterns of 4 sequentially increasing indicia. Trick does not disclose three. It would have been obvious to one of ordinary

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skill in the art to have duplicated the sequence of Trick a third time so as to increase the number of positions on the device and decrease the rotation required for each advance.

See MPEP 2100 on the issue of duplication of parts.

Re claim 15, the indicator element is a spot (see col 3, line 68, and col. 5, line 51, for example).

Re claim 16, again see col 5, lines 51-54.

Re claim 17, see the rejection of claim 12. An additional sequence of 4, set forth as obvious in claim 12, would result in 12 positions.

Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Trick US 4,749,093 in view of Holtsch US 4,756,423 as applied above, and, to the extent necessary, further in view of Sasson US 4,014,628.

Holtsch discloses the lower disc being annular, and being of a particular color. Accordingly, in the broadest reasonable interpretation, the disc is an annular band. The indicator element 24,45 and 75 are of a different color than the disc, and would represent an "open space" within the colored disc, in the broadest reasonable interpretation of this limitation.

Additionally, Sasson discloses an indicator where a colored band 22 includes an open space 24 that is sufficient to view a single indicia.

Accordingly, it would have been obvious to have painted the lower disc of Holtsch with an annular band and open space as taught by Sasson as by doing so a portion of the disc of Holtsch could have been left unpainted, thus saving in paint costs.

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Applicant's arguments drawn to the "calendar" are noted but not persuasive.

Sasson discloses an indicator, just like Holtsch and Trick.

Claims 18-26,28 and 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Trick US 4,749,093 in view of Holtsch US 4,756,423 and further in view of Wachsmann et al US 4,011,829.

Re claim 18, as stated above, Trick in view of Holtsch discloses the claimed limitations, of the closure body and transparent indicator dial.

Trick in view of Holtsch does not disclose the closure body having a central cavity, and the indicator dial having a depending annulus snap received into the central cavity of the top surface of the closure body.

Trick, however, does disclose a pivot structure 228, a rivet, which is an equivalent structure to a central cavity and annulus snap arrangement, both of which being known for use as pivoting structures in indicators.

Wachsmann specifically discloses a indicator dial having a depending annulus 22 snap received into the central cavity of the top surface of the closure body.

It would have been obvious to one of ordinary skill in the art to modify the pivot structure of the rivet of Trick with the depending annulus/central bore arrangement of Wachsmann, as such a structure is known to provide a very fast easy attachment and would provide the benefit of decreased assembly times as compared to the rivet.

Re claim 19-26,28 and 29 note the rejections above which address the subject matter set forth in these claims.

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Specifically regarding claim 20, Trick discloses the opaque indicator dial. Note the 35 USC 112 2nd para. rejection above of this claim that cannot depend from claim 18.

Claim 27 is rejected under 35 U.S.C. 103(a) as being unpatentable over Trick US 4,749,093 in view of Holtsch US 4,756,423 and Wachsmann et al US 4,011,829 and further in view of Sasson US 4,041,628.

Re claim 27 note the rejection of claim 15 that is drawn to the same subject matter.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Lai US 6,059,133 previously cited discloses a reversed arrangement of the central cavity and annulus.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jerrold Johnson whose telephone number is 571-272-7141. The examiner can normally be reached on 9:30 to 6:00 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mickey Yu can be reached on 571-272-4562. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



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